19

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

(Division Bench)

CORAM : **Hon'ble Shri S.R. NAYAK, CJ**
& Hon'ble Shri Satish K. Agnihotri, J.

MISC. APPEAL NO.570 OF 2005

Appellants

(1) Smt. Bhuneshwari Netam,
Aged about 25 years,
Widow of Late Dr. Shivcharan Netam

(2) Ku. Priyanka Netam,
aged about 4 years,
Daughter of Late Dr. Shivcharan Netam,

(3) Ku. Lokeshwari,
Daughter of Late Shivcharan Netam,
aged about 1 ½ years.

(4) Tiharu Ram,
Son of Late Prabhu Ram, aged about 65 years

(5) Smt. Surjautin Bai,
Wife of Tiharu Ram, aged about 61 years

Appellant Nos. 2 and 3 are minors, through their natural guardian (Mother) Smt. Bhuneshwary Netam, widow of Late Dr. Shivcharan Netam.

All are resident of in front of Post Office, Jangalpara, Nagri, Tah. Nagri, Distt. Dhamtari (Chhattisgarh)

VERSUS

Respondents

(1) Upendra Singh Sengar
alias Lalli Singh, aged about 21 years,
Son of Nageshwar Singh,
Resident of Anypam Nagar, Qtr. No.E-5, Raipur, Distt. Raipur (C.G.).

(2) M/s Choudhari Tractors, Near Nirmal Saw Mill, Raipur Road, Dhamtari, Distt. Dhamtari(C.G)

(3) The Oriental Insurance Company Ltd. Dhamtari (C.G.)

Present:

Mr. P.P. Sahu, learned counsel for the appellants
Mr. Prashant Mishra, Sr. Advocate with Mr. Sanjay S Agrawal, learned counsel for respondent No.3/ Insurance Company.

28

ORAL ORDER
(Passed on 01ST of December 2005)

The following Order of the Court was passed by

S.R. Nayak, CJ:

While assailing the impugned award it was contended by learned counsel for the appellants that the Tribunal is not justified in not awarding any compensation towards loss of consortium to the widow of the deceased, for loss of love and affection to children and towards loss of estate. It was also contended that what is awarded towards funeral expenses is very much on lower side.

(2) It is trite that in the case of death of her husband, the widow is entitled to compensation under the conventional head of loss of consortium. Similarly, the minor children of the deceased are also entitled to reasonable compensation towards loss of love and affection. The claimants are also entitled to compensation under the conventional head of loss to estate. Therefore, the Tribunal ought to have awarded compensation under the aforementioned conventional heads.

(3) In the facts and circumstances of the case and having regard to the age of the deceased on the date of death, we award a sum of Rs.20,000/- towards loss of consortium to the widow; Rs.20,000/- towards loss of love and affection to the minor children and Rs.20,000/- under the head of loss to estate, in addition to what has been awarded by the Tribunal. The impugned award shall stand modified accordingly. In all other respects, the impugned award shall remain unaltered. There is no order as to costs.

(4) The appeal is allowed to the extent indicated above.

Sd/-
Chief Justice
Judge

Sd/-
Satish K. Agnihotri
Judge

Gubbi